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Report of the Working Group on the Universal Periodic Review*

El Salvador

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

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1. El Salvador, with a high-level delegation displaying its full willingness to cooperate, presented its report for the second cycle of the universal periodic review to the Human Rights Council of the United Nations on 27 October 2014. It appreciated the recommendations made, from a human rights perspective, by the States members of the Council and expresses its gratitude for the international community's interest in the progress that it has achieved in the area of human rights.

2. It is also grateful for the participation in this assessment of Salvadoran civil society organizations and the Office of the Human Rights Advocate of El Salvador, as it values their important role in continuing to further human rights in the country.

3. El Salvador received 159 recommendations that were examined in advance with the support of the States that made up the troika. During the oral review itself, El Salvador agreed to implement 97 of the recommendations, 36 of which were already being implemented or in the course of adoption. The other 62 recommendations have been put through an internal consultation process, in which the public institutions whose responsibilities include implementation of the recommendations have taken part.

4. The position of the State of El Salvador on the recommendations subject to consultation may be expressed as follows:

Scope of international obligations

5. In recommendations 1 to 23, El Salvador is urged to ratify the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the UNESCO Convention against Discrimination in Education and the Rome Statute of the International Criminal Court, as well as to withdraw its reservation to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. El Salvador undertakes to continue to promote discussion internally on the signing and ratification of the international instruments identified in these recommendations, in accordance with the procedure established in the Constitution of the Republic of El Salvador.

Legislation

6. El Salvador considers that recommendation 24, which encourages it to maintain the separation of powers between the organs of the State and respect for the constitutional authority of each, is an acknowledgement of the general constitutional principle that applies in the country and guides the interaction between the organs of State. On the basis of that principle, in El Salvador the branches of government are independent and have their own constitutional and legal functions and powers, but they must also cooperate, in order to guarantee the rights of persons through the public service. El Salvador considers that this recommendation confirms that it is on the right path towards consolidating the rule of law and therefore decides to accept it.

7. The State accepts recommendation 25, on maintaining the current legislation that protects the right to life, since it understands that it is obliged to guarantee the right to life of all persons, in the broadest sense, which includes the right to a decent life.

Political measures

8. Recommendations 26 and 27, the purpose of which is to ensure that El Salvador maintains and strengthens the institutional and legislative measures designed to protect persons belonging to vulnerable groups and to address the inequality and disparities that affect them in order to ensure that they have full access to natural resources, particularly in

rural areas, as well as in terms of education, health and employment, are accepted, since El Salvador has already taken significant steps to that end, including the study, formulation and adoption of relevant legislation, such as the Development and Social Protection Act, which has established a national system of development, protection and social inclusion. In addition, El Salvador is working on the development of inclusive strategies and equal opportunities for vulnerable groups.

9. Recommendation 28 inviting El Salvador to consider the possibility of drawing up and implementing a national human rights programme that addresses comprehensively issues such as public safety and violence, taking into account all social actors, is also accepted, because El Salvador has already made progress in this regard. In 2014, for example, it set up the National Public Safety and Coexistence Council, made up of institutions from the executive branch, the judiciary and the Public Legal Service, in addition to national bodies guiding the development of policies on women, children, adolescents and youth. With input from all sectors of society, this Council has developed the Safe El Salvador Plan, which contains 124 specific proposals designed to reduce violence.

10. El Salvador accepts recommendation 29, on drawing up and adopting a national human rights plan, since it considers that the 2014–2019 Five-Year Development Plan, which is the highest public policy instrument, has been formulated on the basis of a cross-cutting human rights approach, developed through broad public consultations, and of strategies such as equity, social inclusion and social protection.

Cooperation with human rights mechanisms

11. It was also recommended that El Salvador examine the possibility of creating a monitoring system of international recommendations to facilitate the systematization and follow-up of the recommendations from human rights bodies and special procedures (recommendation 30). The State accepts this recommendation and will examine and assess the possibility of creating a follow-up system suited to the country's specific needs, so long as this turns out to be an improvement on the internal mechanism currently used for that purpose. To that end, it has already conducted an exchange relating to the experience of Paraguay, within the framework of the assistance offered by the Office of the United Nations High Commissioner for Human Rights.

Equality and non-discrimination

12. El Salvador accepts recommendation 31 on establishing mechanisms of evaluation and follow-up of the implementation of human rights, public policies and programmes, in particular those relating to the fight against discrimination in all its forms and on any grounds, taking into account the recommendations from the universal periodic review and other human rights mechanisms, inasmuch as the country already has bodies and mechanisms that ensure follow-up of the results and impacts of public policies and programmes, such as the Council of Ministers, which approves the Five-Year Plan, annual follow-up reports and assessment reports; the Administrative Cabinet and Expanded Cabinets, which coordinate the strategic implementation of the objectives of the Five-Year Plan, and the Technical and Planning Secretariat of the Office of the President, which coordinates implementation of the Five-Year Plan and initiates development of the National Planning System and the National Information and Statistics System.

13. Recommendations 32 to 36, relating to the LGTBI population, call on El Salvador to continue the effective implementation of programmes to guarantee the full enjoyment of the rights and the protection of LGBTI people from acts of violence and discrimination, as well as to propose a set of actions to guarantee the right of all persons to live and develop in accordance with their self-perceived gender identity, adopt a law on gender identity, amend

legislation to prohibit discrimination based on sexual orientation and strengthen policies of promotion and protection of LGBTI people, through public policies that combat hate crimes against them. El Salvador is prepared to engage in discussion on initiatives that could be taken in this regard, in accordance with the principle of equality and non-discrimination. In addition, it agrees that its legislation must develop the constitutional principle of equality and non-discrimination, in order to ensure the protection of its people and respect for their human rights, as well as equality before the law, and undertakes to follow up on the actions that were put forward during the universal periodic review in relation to guaranteeing the rights of this population.

Right to life, liberty and security of the person

14. El Salvador accepts recommendations 37 and 38 to keep striving to eradicate unchecked criminality, corruption and gang activity, by focusing on education, decent employment and transparency in law enforcement, as well as to strengthen measures to confront the roots of violence and crime, in its fight against organized crime, and to adopt a restorative justice approach for young people, because it is currently engaged in a major effort in this respect and has planned 124 actions designed to reduce violence, as proposed by the National Public Safety and Coexistence Council in its Safe El Salvador Plan.

15. In recommendations 39 and 40 El Salvador is urged to take extensive action with a view to demilitarizing the police force or ending the involvement of military personnel in civilian security work and granting responsibility for public security to the appropriate institutions. El Salvador does not consider it appropriate to reject such a recommendation, which reinforces the principles for the management of the National Civil Police that were laid out as part of the peace accords, but it has already been fully implemented, following a review of its constitutionality issued by the Constitutional Chamber in ruling No. 4-2012, handed down in May 2013.

16. El Salvador accepts recommendation (41), calling for increased efforts to protect children from economic exploitation, inter alia through the introduction of legislation establishing the minimum age for admission to employment and ensuring decent working conditions, because its domestic laws already establish a minimum age of employment, working hours and other conditions that safeguard the right to education, leisure and health.

Administration of justice

17. In recommendations 42, 43 and 44, El Salvador is called on to reinforce its judicial system and law enforcement authority; improve the transparency and efficiency of its judicial system; ensure a fair, open and prompt process for all sectors of society; and improve the procedure and increase the resources of penal reform. These recommendations are accepted by El Salvador, because it is already making every effort in this respect, through coordinated actions with the judiciary and the law enforcement authority. In addition, criminal procedure was reviewed and amended, resulting in the adoption of the Code of Criminal Procedure, which entered into force on 1 January 2011.

18. El Salvador also received recommendations to combat impunity by increasing the capacity of investigators and prosecutors and reducing corruption in the public sector and the judiciary (recommendation 45); to take measures to prevent and combat impunity for human rights violations by investigating all threats, harassment, intimidation, violence and enforced disappearances, in particular those concerning children and human rights defenders; and to ensure that all perpetrators are held accountable for their actions (recommendation 46). El Salvador agrees with these recommendations, since it is already taking steps to strengthen investigative capacity and combat corruption. Its domestic legislation already offers protection for children through a specialized jurisdiction, and in criminal matters aggravating circumstances apply to crimes against human rights defenders.

19. It was recommended that El Salvador consider amending the General Amnesty Act of 1993 (recommendation 47) and take concrete and substantial steps in terms of transitional justice in order to address grave human rights violations committed during the internal armed conflict from 1979 to 1992 (recommendation 48). El Salvador accepts these recommendations, because that legislation is already being reconsidered as part of a constitutional review before the Constitutional Chamber of the Supreme Court, while an earlier ruling on constitutionality determined that the Act did not apply in cases of human rights violations. In addition, an order of the Constitutional Chamber, issued after an application for protection, upheld the obligation to investigate serious violations of human rights during the internal armed conflict.

Review of legislation

20. Recommendations 49 to 58 call for a review of legislation to decriminalize abortion and make available safe and legal abortion services. The State wishes to recall that in El Salvador there is a constitutional rule that recognizes the right to life from the moment of conception. It takes note of these recommendations, since it believes that any legislative changes at this level would depend on the possibility of creating, as a prerequisite, a comprehensive and participatory national dialogue on the recommendations, in the light of domestic regulations and the principles contained in international norms on fundamental rights.

21. El Salvador accepts recommendations 61 and 62 on ensuring access to comprehensive sex education and to sexual and reproductive health services, including contraception under anonymous, non-discriminatory and confidential conditions, within the framework of what is already established under domestic law, including special legislation on children and adolescents and the National Sexual and Reproductive Health Policy, on the basis of which El Salvador is developing specific strategies.

22. El Salvador undertakes to continue pursuing the course charted for the advancement of human rights and reiterates its full support for reliance on the universal periodic review as a fitting means of ensuring that human rights are respected and safeguarded the world over.